

**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF COLUMBIA**

DARIO DE ALMEIDA LIMA  
3040 Spectrum Road  
Dover, PA 17315

Plaintiff

v.

Civil Action No: 1:23-cv-2908

ALEJANDRO MAYORKAS, in his official  
capacity, Secretary, U.S. Department of  
Homeland Security;

UR M. JADDOU, in her official capacity,  
Director, U.S. Citizenship and Immigration  
Services;

TED H. KIM, in his official capacity, Acting  
Associate Director of Refugee, Asylum and  
International Operations, U.S. Citizenship and  
Immigration Services,

2707 Martin Luther King Jr. Ave, SE  
Washington, DC 20528-0485

MERRICK B. GARLAND, Attorney General,  
Office of Attorney General U.S. Department of  
Justice;

950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Defendant(s).

**PLAINTIFF'S ORIGINAL COMPLAINT FOR WRIT IN THE NATURE OF  
MANDAMUS AND VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT**

Sadaf Ahmed, Attorney for Plaintiff, JEELANI LAW FIRM, PLC, 9511 Angola Court,

Indianapolis, IN 46268, Ph: 312-767-9030, Facsimile: 312-549-9981, Email: [sadaf@jeelani-](mailto:sadaf@jeelani-law.com)

[law.com](http://jeelani-law.com).

## **INTRODUCTION**

COMES NOW DARIO DE ALMEIDA LIMA, (hereinafter “Plaintiff LIMA” or “Plaintiff”) the Plaintiff, by and through the undersigned attorney in the above cause and states as follows:

1. This action is brought because of Defendants' failure to adjudicate Plaintiff LIMA's Form I-589, Application for Asylum and Withholding of Removal, (hereinafter “Asylum Application” or “Application”) within the statutory period of 180 days pursuant to 8 U.S.C. §1158(d)(5)(A)(iii). As Plaintiff's Application has been pending for over a total of over six years and nine months (over 81 months or 2468 days) since the date of filing; Defendants have taken thirteen (13) times the maximum statutory period they are given to adjudicate asylum applications.

2. Defendants are in violation of the Administrative Procedures Act, 5 U.S.C. § 701 et seq. As such, this action is brought to compel Defendants and those acting under them to take action on the Application, which has been pending for over a total of over six years and eight months with the United States Citizenship and Immigration Services.

3. Plaintiff has completed the required biometrics appointment and interview. No further requests for information have been made by United States Citizenship and Immigration Service (“USCIS”) since the completion of both.

4. Defendants cannot reasonably continue to use COVID-19 as a defense to their failure to adjudicate the Petition as most, if not all, USCIS Asylum offices are fully operational at this time and all in person interactions have already taken place; as such, COVID-19 related issues do not prohibit an officer's issuance of a decision in this matter.

## **PARTIES**

5. Plaintiff DARIO DE ALMEIDA LIMA is a national of Angola and for purposes of this Mandamus, is a resident of York County, Pennsylvania. He properly filed Form I-589, Application

for Asylum and Withholding of Removal (Receipt Number: ZBO1700002490) on December 27, 2016, with the United States Citizenship and Immigration Service.

6. Defendant ALEJANDRO MAYORKAS is the Secretary of the United States Department of Homeland Security (hereinafter “DHS”). This action is filed against him in his official capacity. Defendant MAYORKAS is responsible for the enforcement of the INA and for the delegation of adjudicatory and discretionary authority to other employees of the DHS and USCIS pursuant to 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1.

7. Defendant UR M. JADDOU is the Director of USCIS; she is an official generally charged with supervisory authority over all operations of USCIS under 8 C.F.R. § 103.1. This action is filed against her in her official capacity.

8. Defendant TED H. KIM is the Acting Associate Director of Refugee, Asylum, and International Operations Directorate (RAIO); he is an official generally charged with supervisory authority over all operations of USCIS Asylum Offices. This action is filed against him in his official capacity.

9. Defendant MERRICK B. GARLAND is the Attorney General of the United States; he is an official generally charged with supervisory authority over all operations of the Department of Justice (hereinafter “DOJ”) under 28 C.F.R. § 0.5. This action is filed against him in his official capacity.

### **JURISDICTION AND VENUE**

10. This Court has jurisdiction to hear this complaint and the claims stated herein by virtue of 28 U.S.C. §§ 1331, § 1361 and §2201 because this is a federal mandamus action brought to compel Defendants to perform their statutory duties owed to the Plaintiff. This Court has additional

jurisdiction by virtue of the Administrative Procedures Act, 5 U.S.C. § 701, *et seq.*, because Plaintiff is seeking judicial review of inaction by one or more of the Defendants.

11. Venue is proper in the District Court for the District of Columbia pursuant to 28 U.S.C. §1391(e) in that this is the district in which one of the Defendants resides.

#### **EXHAUSTION OF REMEDIES**

12. The Plaintiff has repeatedly requested the Defendants to take action on his Application.

13. The Plaintiff has exhausted his administrative remedies. Plaintiff has supplied USCIS with all documents and information that have been requested of him.

14. Plaintiff has appeared for and completed his asylum interview with a USCIS officer.

15. There are no further administrative remedies available for Plaintiff to utilize.

#### **FACTUAL ALLEGATIONS**

16. Plaintiff is a national of Angola who properly filed his Asylum Application with USCIS on December 27, 2016 (Receipt Number: ZBO1700002490).

17. In January 2017, Plaintiff appeared for and completed his scheduled biometrics appointment at the designated USCIS Application Support Center. On September 15, 2022, Plaintiff's biometrics were again collected at the time of his interview.

18. On September 15, 2022, Plaintiff appeared for his interview with USCIS relating to his I-589 Application without any resolution to his claim for Asylum. **[Exhibit A].**

19. Plaintiff has provided USCIS with all requested information.

20. Since 2016, following the filing of the Application, and subsequent biometrics appointment, and interview in the September of 2022, Plaintiff has made numerous inquiries with USCIS regarding the adjudication of his Application.

21. As of this date, Plaintiff's inquiries have not amounted to any meaningful responses by USCIS. USCIS has only responded with generic statements providing that Plaintiff's case is still pending.

22. As of the date of this filing, Plaintiff's Application remains unadjudicated for a total period of over six years and nine months (over 81 months or 2468 days) since the date of filing and over one year (over 12 months or 380 days) since completion of his asylum interview.

23. Defendants have conducted the initial investigation and have sufficient information and documentation about Plaintiff to adjudicate his Application.

24. Defendant's delay and inaction is causing irreparable harm to Plaintiff as he is unable to commence his life in the U.S. without living in fear of being forced to return to Angola, where he will certainly be persecuted, tortured, and/or killed.

25. As a result of Defendant's inaction, Plaintiff has incurred enormous costs and significant attorney's fees. Also, because of the Defendant's inaction, Plaintiff has been deprived of the requested immigration relief as an asylee, for which he is eligible.

### **COUNT I**

#### **VIOLATION OF THE APA**

26. All prior paragraphs are re-alleged as if fully stated herein.

27. Plaintiff has a statutory right to apply for asylum and to be considered for relief under the same pursuant to 8 U.S.C. § 1158(a).

28. Defendants have a statutory duty to adjudicate asylum applications within 180 days of filing pursuant to 8 U.S.C. § 1158(d)(5)(A)(iii).

29. The duty owed to Plaintiff is ministerial and so plainly prescribed as to be clear and free from doubt.

30. No other adequate remedy is available to Plaintiff.

31. Defendants have failed in their statutory duty to adjudicate the Application within 180 days.

32. As Plaintiff's Application has been pending for over a total of six years and nine months (over 81 months or 2468 days) since the date of filing; Defendants have taken over thirteen (13) times the maximum statutory period they are given to adjudicate asylum applications.

33. Defendants' delay in this case is, as a matter of law, arbitrary, in violation of Plaintiff's due process rights and not in accordance with the law. Defendants have willingly and unreasonably delayed and have refused to take action on the Plaintiff's Application.

34. Defendants have violated the Administrative Procedures Act, 5 U.S.C. § 701 et seq., as they are unlawfully withholding action on the Plaintiff's Application for a total period of over six years and nine months (over 81 months or 2468 days) and have failed to carry out the adjudicative functions that are delegated to them by law with regard to Plaintiff's case.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays:

1. That Defendants be cited to appear herein and that, upon due consideration, the Court enter an order mandating a time certain to adjudicate Plaintiff LIMA's Asylum Application;

2. In the alternative, that the Court compel Defendants, and those acting under them, to perform their duty to adjudicate Plaintiff's Application immediately.

3. Finally, that the Court award reasonable attorney's fees under the Equal Access to Justice Act, 5 U.S.C. § 504, and such other and future relief as this Court deems proper.

Date: September 29, 2023

Respectfully submitted,

/s Sadaf F. Ahmed

**Sadaf F. Ahmed, Esq. (IN0013)**

**JEELANI LAW FIRM, PLC**

**9511 Angola Court**

**Indianapolis, IN 46268**

**sadaf@jeelani-law.com**

**Phone:(312) 767-9030**

**Fax:(312) 767-9030**

***Counsel for Petitioners***